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OCT 27 2004

OFFICE OF PETITIONS

In re Application of :
Jeffrey H. Dunn and Cynthia E. :
Martin : DECISION REFUSING STATUS
Application No. 10/825,777 : UNDER 37 CFR 1.47(b)
Filed: April 15, 2004 :
For: AUTHENTICATION MECHANISMS FOR :
CALL CONTROL MESSAGE INTEGRITY AND :
ORIGIN VERIFICATION :

This is in response to the petition under 37 CFR 1.47(b), filed August 27, 2004, regarding non-signing inventor **Jeffrey H. Dunn**.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on April 15, 2004 without an executed oath or declaration and naming **Jeffrey H. Dunn** and Cynthia E. Martin as joint inventors.

Accordingly, on June 28, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a surcharge for its late filing.

In response, on August 27, 2004, the instant petition was filed.

A grantable petition under 37 CFR 1.47(b) requires:

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;

- (2) an acceptable oath or declaration;
- (3) the petition fee;
- (4) a statement of the last known address of the non-signing inventor;
- (5) proof of proprietary interest; and
- (6) proof of irreparable damage.

Applicant lacks items (2) and (5), as set forth above.

Regarding Item (2):

The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP § 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. *Staeger v. Commissioner*, 189 USPQ 272 (D.D.C. 1976), *In re Striker*, 182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b). See MPEP 409.03(b).

Regarding Item (5):

As the Employment Agreement with non-signing inventor **Jeffrey H. Dunn** is unsigned, Rule 47 applicant failed to show or provide proof that Lucent Technologies, Inc. (Lucent) has sufficient proprietary interest in the subject matter to justify the filing of the application (see MPEP 409.03(f)). Acceptable proof would include a copy of the signed employment agreement between the

non-signing inventor and Lucent, a copy of a signed assignment agreement showing that the invention disclosed in the application is assigned to Lucent, or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to Lucent.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 Box 1450
 Alexandria, VA 22313

By FAX: (703) 308-6916
 Attn: Office of Petitions

By hand: Office of Petitions
 2201 South Clark Place
 Crystal Plaza 4, Suite 3C23
 Arlington, VA

Telephone inquiries should be directed to the undersigned at (571)272-3228.



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